

REMARKS

STATUS OF CLAIMS

Applicants have amended claims 23 and 34-36. New claim 48 has been added and claim 39 has been canceled, leaving claims 24-33, 37-38 and 40-47 unchanged. Thus, the rejection of claim 39 is moot. Applicants respectfully request allowance of pending claims 23-38 and 40-48.

CLAIM REJECTIONS – 35 U.S.C. §112

Claims 23 and 34-36 stand rejected under 35 U.S.C. §112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicants regard as the invention.

Claims 23 and 34-36 have been amended to overcome the ‘indefinite’ rejections. Specifically, ‘soft’ has been replaced by its definition which is found in the first paragraph on page 3 of the originally-filed application. This issue has similarly been addressed in claims 34-36.

In addition, claim 23 is now a process for setting an expanded foodstuff.

Claim 35 has also been amended to make it clear that the expanded foodstuff composition to be set is cut into pieces after extrusion.

Applicants respectfully submit that the rejections to claims 23 and 34-36 under 35 U.S.C. §112, second paragraph, are hereby overcome.

CLAIM REJECTIONS – 35 U.S.C. §102

Claims 23, 24, 28, 31-34, 36-38, 42 and 45-47 stand rejected under 35 U.S.C. §102(b) as being anticipated by U.S. Patent No. 4,869,911 issued to Keller.

Keller discloses “a method and composition for producing an expanded, farinaceous food product without the use of a drying oven or other drying apparatus . . .” Col. 2, lines 17-20.

Amended claim 23 recites, among other things, that an already expanded foodstuff composition at a first temperature and a first pressure is passed into a setting region which is at a lower temperature and a lower pressure than the first temperature and the first pressure. There is no teaching or suggestion of such a step in Keller. The food composition in Keller does not become expanded until it leaves the extruder, at which point it is at atmospheric pressure. Once the product has cooled, it has a satisfactory expanded crispy texture without additional drying. In fact, the whole emphasis of Keller is to avoid an additional drying step. There is no suggestion in Keller that once downstream of the extruder (and hence expanded) the foodstuff should be passed into a region of lower pressure to effect drying. In fact, such a procedure is wholly incompatible with the teachings of Keller since Keller sets out to avoid any additional drying step. Accordingly, claim 23 is novel and non-obvious over Keller.

Amended claim 36 is also novel and non-obvious over Keller for the same and similar reasons. Claim 36 recites, among other things, that the foodstuff composition is in at least a partially expanded condition when it is passed into the setting region at the second pressure which is lower than the first pressure. Applicants further emphasize that no expansion in Keller occurs until exit from the extrusion die, after which there is no change in ambient pressure.

Accordingly, Applicants respectfully submit that independent claims 23 and 36 and any claims that depend therefrom, including claims 24, 28, 31-34, 37-38, 42 and 45-47, are allowable over Keller, and that the rejections to claims 23, 24, 28, 31-34, 36-38, 42 and 45-47 under 35 U.S.C. §102(b) are hereby overcome. Reconsideration and allowance of independent claim 23 and its dependent claims 24-35, as well as independent claim 36 and its dependent claims 37-47, are respectfully requested.

NEW CLAIM

Claim 48 has been added and incorporates the limitations from claims 36 and 39. Keller discloses an extrusion process in which the soft (unexpanded) foodstuff at a high temperature and pressure is extruded into a region of relatively lower temperature and pressure. This is a standard extrusion process which requires that the pressure upstream of the extrusion die be higher than atmospheric. New claim 48 requires that the first pressure is substantially atmospheric pressure. This is incompatible with the extrusion process disclosed in Keller. As a

corollary, if the first pressure is substantially atmospheric pressure, then the second (lower) pressure must be less than atmospheric. There is no disclosure in Keller of extrusion into anything other than a region of atmospheric pressure. Therefore, Applicants respectfully submit that new claim 48 is in condition for allowance.

CLAIM REJECTIONS – 35 U.S.C. §103

Claims 25–27 and 40–41 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,869,911 issued to Keller in view of U.S. Patent No. 4,744,993 issued to Bisson et al.

Claims 25–27 and 40–41 are each ultimately dependent upon allowable independent claims 23 and 36, respectively. Claims 25–27 and 40–41 are therefore believed to be allowable based upon claims 23 and 36 and upon other features and elements claimed in claims 25–27 and 40–41 but not discussed herein.

CLAIM REJECTIONS – 35 U.S.C. §103

Claims 30 and 44 stand rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,869,911 issued to Keller in view of U.S. Patent No. 3,989,853 issued to Forkner.

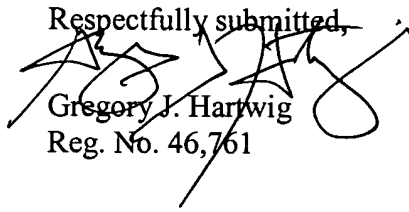
Claims 30 and 44 are each ultimately dependent upon allowable independent claims 23 and 36, respectively. Claims 30 and 44 are therefore allowable based upon claims 23 and 36 and upon other features and elements claimed in claims 30 and 44 but not discussed herein.

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CONCLUSION

In view of the above, allowance of pending claims 23-38 and 40-48 is respectfully requested.

Respectfully submitted,


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